

AMENDED IN SENATE AUGUST 16, 1999

AMENDED IN SENATE JUNE 22, 1999

AMENDED IN ASSEMBLY JUNE 2, 1999

AMENDED IN ASSEMBLY MAY 27, 1999

AMENDED IN ASSEMBLY MAY 6, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

---

---

**ASSEMBLY BILL**

**No. 321**

**Introduced by Assembly Member Wildman**

February 8, 1999

---

---

An act to amend Section 1263.320 of the Code of Civil Procedure, and to amend Section 822 of the Evidence Code, relating to eminent domain.

LEGISLATIVE COUNSEL'S DIGEST

AB 321, as amended, Wildman. Eminent domain: valuation.

(1) Existing law provides for the compensation of property taken pursuant to the power of eminent domain. Existing law provides that the measure of this compensation is the fair market value of the property, which is defined as the highest price on the date of valuation that would be agreed to by a seller and a buyer, each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable.

This bill would provide that a component of the determination of fair market value is consideration of any

limitations on the property's reasonable adaptability or availability for a use or purpose.

(2) Existing law renders inadmissible as evidence, and prohibits as a basis for an opinion as to the value of property, in an eminent domain or inverse condemnation proceeding, the price or other terms and circumstances of an acquisition of property or a property interest if the acquisition was for a public use for which the property could have been taken by eminent domain. Existing law exempts from this provision the price or other terms and circumstances of an acquisition of property appropriated to a public use or a property interest so appropriated if the acquisition was for the same public use for which the property could have been taken by eminent domain.

This bill would ~~delete~~ *revise* the above-described exemption *to apply to the price or other terms and circumstances if the proceeding relates to the acquisition of a water system.*

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1263.320 of the Code of Civil  
2 Procedure is amended to read:  
3 1263.320. (a) The fair market value of the property  
4 taken is the highest price on the date of valuation that  
5 would be agreed to by a seller, being willing to sell but  
6 under no particular or urgent necessity for so doing, nor  
7 obliged to sell, and a buyer, being ready, willing, and able  
8 to buy but under no particular necessity for so doing, each  
9 dealing with the other with full knowledge of all the uses  
10 and purposes for which the property is reasonably  
11 adaptable and available and any limitations on the  
12 reasonable adaptability of the property or its availability  
13 for a use or purpose.  
14 (b) The fair market value of property taken for which  
15 there is no relevant, comparable market is its value on the  
16 date of valuation as determined by any method of  
17 valuation that is just and equitable.



SEC. 2. Section 822 of the Evidence Code is amended to read:

822. (a) In an eminent domain or inverse condemnation proceeding, notwithstanding the provisions of Sections 814 to 821, inclusive, the following matter is inadmissible as evidence and shall not be taken into account as a basis for an opinion as to the value of property:

(1) The price or other terms and circumstances of an acquisition of property or a property interest if the acquisition was for a public use for which the property could have been taken by eminent domain.

*The price or other terms and circumstances shall not be excluded pursuant to this paragraph if the proceeding relates to the acquisition of a water system as defined in Section 240 of the Public Utilities Code.*

(2) The price at which an offer or option to purchase or lease the property or property interest being valued or any other property was made, or the price at which the property or interest was optioned, offered, or listed for sale or lease, except that an option, offer, or listing may be introduced by a party as an admission of another party to the proceeding; but nothing in this subdivision permits an admission to be used as direct evidence upon any matter that may be shown only by opinion evidence under Section 813.

(3) The value of any property or property interest as assessed for taxation purposes or the amount of taxes which may be due on the property, but nothing in this subdivision prohibits the consideration of actual or estimated taxes for the purpose of determining the reasonable net rental value attributable to the property or property interest being valued.

(4) An opinion as to the value of any property or property interest other than that being valued.

(5) The influence upon the value of the property or property interest being valued of any noncompensable items of value, damage, or injury.

1 (6) The capitalized value of the income or rental from  
2 any property or property interest other than that being  
3 valued.

4 (b) In an action other than an eminent domain or  
5 inverse condemnation proceeding, the matters listed in  
6 subdivision (a) are not admissible as evidence, and may  
7 not be taken into account as a basis for an opinion as to the  
8 value of property, except to the extent permitted under  
9 the rules of law otherwise applicable.

